

House Engrossed Senate Bill

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 163

SENATE BILL 1136

AN ACT

AMENDING SECTIONS 42-1104, 42-2003, 43-327 AND 43-1148, ARIZONA REVISED
STATUTES; RELATING TO TAX ADMINISTRATION AND ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 42-1104, Arizona Revised Statutes, is amended to
3 read:

4 42-1104. Statutes of limitation; exceptions

5 A. For the taxes to which this article applies every notice of every
6 additional tax due shall be prepared on forms prescribed by the department
7 and mailed within four years after the report or return is required to be
8 filed or within four years after the report or return is filed, whichever
9 period expires later.

10 B. The following are exceptions to the general rules prescribed by
11 this section, and a deficiency assessment may be issued in any of the
12 following cases:

13 1. The department may assess the tax or begin a proceeding in court
14 for the collection of the tax at any time:

15 (a) In the case of a false or fraudulent return with the intent to
16 evade tax.

17 (b) In the case of failure to file a return.

18 2. If a taxpayer omits from gross income, gross receipts, gross
19 proceeds of sales or Arizona adjusted gross income, as defined for purposes
20 of chapter 5 of this title or title 43, an amount which is properly
21 includible and which is in excess of twenty-five per cent of the amount of
22 gross income stated in the return, the tax may be assessed at any time within
23 six years after the return was filed.

24 3. If a taxpayer during a taxable year sells at a gain property used
25 as the taxpayer's principal residence, the statutory period for the
26 assessment of any deficiency attributable to any part of the gain does not
27 expire before the expiration of four years from the date the taxpayer
28 notifies the United States internal revenue service pursuant to the United
29 States internal revenue code.

30 4. If a claim for credit or refund relates to an overpayment on
31 account of the deductibility of a debt as one which became worthless, a loss
32 from worthlessness of a security, an erroneous inclusion of an amount
33 attributable to the recovery of a bad debt, prior tax or delinquency amount
34 due to an adjustment of a bad debt deduction or a loss deduction from
35 worthlessness of a security, the period of limitation is seven years from the
36 date prescribed by law for filing the return for the year with respect to
37 which the claim is made.

38 5. If a taxpayer fails to report a change or correction by the
39 commissioner of internal revenue or other officer of the United States or
40 other competent authority or fails to file an amended return as required by
41 section 43-327, the department may assess any deficiency resulting from such
42 adjustments within four years after the change, correction or amended return
43 is reported to or filed with the United States internal revenue service
44 regardless of any previous examinations by the department.

1 6. If a taxpayer is required to report a change or correction by the
2 commissioner of internal revenue or other officer of the United States or
3 other competent authority or to file an amended return as required by section
4 43-327 and does report the change or files the return, any deficiency
5 resulting from the adjustments may be assessed within six months from the
6 date the notice of amended return is filed with the department by the
7 taxpayer, or within the period provided in subsection A of this section or
8 paragraph 1 or 2 of this subsection, whichever period expires last.

9 7. If a taxpayer agrees with the United States commissioner of
10 internal revenue for an extension or renewals of the period for proposing and
11 assessing deficiencies in federal income taxes for any year, the period for
12 mailing a notice of a proposed income tax deficiency is four years after the
13 return was filed or six months after the date of the expiration of the agreed
14 period for assessing deficiencies in the federal income tax, whichever period
15 expires later EXCEPT AS PROVIDED IN PARAGRAPH 8 OF THIS SUBSECTION.

16 8. IF A TAXPAYER AGREES WITH THE UNITED STATES COMMISSIONER OF
17 INTERNAL REVENUE FOR A LIMITED EXTENSION OR RENEWALS OF THE PERIOD FOR
18 PROPOSING AND ASSESSING DEFICIENCIES IN FEDERAL INCOME TAXES FOR ANY YEAR,
19 THEN, SOLELY WITH RESPECT TO THOSE ITEMS SPECIFICALLY ENUMERATED IN THIS
20 AGREEMENT, THE PERIOD FOR MAILING A NOTICE OF A PROPOSED INCOME TAX
21 DEFICIENCY, OR CLAIMING A REFUND, IS FOUR YEARS AFTER THE RETURN WAS FILED
22 OR SIX MONTHS AFTER THE DATE OF THE EXPIRATION OF THE AGREED PERIOD FOR
23 ASSESSING DEFICIENCIES IN THE FEDERAL INCOME TAX, WHICHEVER PERIOD EXPIRES
24 LATER.

25 ~~8.~~ 9. If, before the expiration of the time prescribed for the
26 mailing of a notice of a proposed deficiency assessment, the taxpayer
27 consents in writing to an assessment after that time, the assessment may be
28 made at any time before the expiration of the period agreed on. The period
29 agreed on may be extended by subsequent written agreements made before the
30 expiration of the period previously agreed on.

31 C. Notwithstanding subsection A of this section and subsection B,
32 paragraphs 1 and 2 of this section, a taxpayer who has a duty to collect use
33 tax shall not be assessed tax pursuant to chapter 5, article 4 of this title
34 for any retail sales to purchasers who were licensed pursuant to section
35 42-5005 or registered pursuant to section 42-5154 and who filed use tax
36 returns for the reporting period in which the sale was made, if the reporting
37 period in which the sale was made is more than four years from the notice of
38 proposed deficiency. If, before the expiration of this time limitation, the
39 taxpayer consents in writing to an assessment after that time for the
40 transactions, a subsequent assessment may include any transaction within the
41 agreed extended period. The period agreed to may be extended by subsequent
42 written agreements made before the expiration of the period previously agreed
43 to.

1 Sec. 2. Section 42-2003, Arizona Revised Statutes, is amended to read:
2 42-2003. Authorized disclosure of confidential information

3 A. Confidential information relating to:

4 1. A taxpayer may be disclosed to the taxpayer, its successor in
5 interest or a designee of the taxpayer who is authorized in writing by the
6 taxpayer. A PRINCIPAL CORPORATE OFFICER OF A PARENT CORPORATION MAY EXECUTE
7 A WRITTEN AUTHORIZATION FOR A CONTROLLED SUBSIDIARY.

8 2. A corporate taxpayer may be disclosed to any principal officer of
9 ~~the corporation~~, ANY PERSON DESIGNATED BY A PRINCIPAL OFFICER OR ANY PERSON
10 DESIGNATED IN A RESOLUTION BY THE CORPORATE BOARD OF DIRECTORS OR OTHER
11 SIMILAR GOVERNING BODY.

12 3. A partnership may be disclosed to any partner of the partnership.
13 This exception does not include disclosure of confidential information of a
14 particular partner unless otherwise authorized.

15 4. An estate may be disclosed to the personal representative of the
16 estate and to any heir, next of kin or beneficiary under the will of the
17 decedent if the department finds that the heir, next of kin or beneficiary
18 has a material interest which will be affected by the confidential
19 information.

20 5. A trust may be disclosed to the trustee or trustees, jointly or
21 separately, and to the grantor or any beneficiary of the trust if the
22 department finds that the grantor or beneficiary has a material interest
23 which will be affected by the confidential information.

24 6. Any taxpayer may be disclosed if the taxpayer has waived any rights
25 to confidentiality either in writing or on the record in any administrative
26 or judicial proceeding.

27 7. A claimant may be disclosed to the claimant, its successor in
28 interest or a designee of the claimant pursuant to written authorization by
29 the claimant.

30 B. Confidential information may be disclosed to:

31 1. Any employee of the department whose official duties involve tax
32 or unclaimed property administration.

33 2. The office of the attorney general solely for its use in
34 preparation for, or in an investigation which may result in, any proceeding
35 involving tax or unclaimed property administration before the department or
36 any other agency or board of this state, or before any grand jury or any
37 state or federal court.

38 3. The department of liquor licenses and control for its use in
39 determining whether a spirituous liquor licensee has paid all transaction
40 privilege taxes and affiliated excise taxes incurred as a result of the sale
41 of spirituous liquor at the licensed establishment and imposed on the
42 licensed establishments by this state and its political subdivisions.

43 4. Other state tax or unclaimed property officials of this state whose
44 official duties require the disclosure for proper tax or unclaimed property
45 administration purposes if the information is sought in connection with an

1 investigation or any other proceeding conducted by the official. Any
2 disclosure is limited to information of a taxpayer or claimant who is being
3 investigated or who is a party to a proceeding conducted by the official.

4 5. The following agencies, officials and organizations, if they grant
5 substantially similar privileges to the department for the type of
6 information being sought, pursuant to statute and a written agreement between
7 the department and the foreign country, agency, state, Indian tribe or
8 organization:

9 (a) The United States internal revenue service, United States bureau
10 of alcohol, tobacco and firearms, United States drug enforcement agency and
11 federal bureau of investigation.

12 (b) A state tax or unclaimed property official of another state.

13 (c) An organization of states that operates an information exchange
14 for tax administration purposes.

15 (d) An agency, official or organization of a foreign country with
16 responsibilities that are comparable to those listed in subdivision (a), (b)
17 or (c) of this paragraph.

18 (e) An agency, official or organization of an Indian tribal government
19 with responsibilities comparable to the responsibilities of the agencies,
20 officials or organizations identified in subdivision (a), (b) or (c) of this
21 paragraph.

22 6. The auditor general, in connection with any audit of the department
23 subject to the restrictions in section 42-2002, subsection C.

24 7. Any person to the extent necessary for effective tax or unclaimed
25 property administration in connection with:

26 (a) The processing, storage, transmission and reproduction of the
27 information.

28 (b) The programming, maintenance, repair, testing and procurement of
29 equipment for purposes of tax administration.

30 8. The office of administrative hearings relating to taxes
31 administered by the department pursuant to section 42-1101, but the
32 department shall not disclose any confidential information:

33 (a) Regarding income tax, withholding tax or estate tax.

34 (b) On any tax issue relating to information associated with the
35 reporting of income tax, withholding tax or estate tax.

36 9. The United States treasury inspector general for tax administration
37 for the purpose of reporting a violation of internal revenue code section
38 7213(A) ~~(a)~~ (26 United States Code section 7213(A)) ~~a)~~, unauthorized
39 inspection of returns or return information.

40 C. Confidential information may be disclosed in any state or federal
41 judicial or administrative proceeding pertaining to tax or unclaimed property
42 administration if the taxpayer or claimant is a party to the proceeding.

43 D. Identity information may be disclosed for purposes of notifying:

44 1. Persons entitled to tax refunds if the department is unable to
45 locate the persons after reasonable effort.

1 2. Owners of unclaimed property pursuant to section 44-309.

2 E. The department, upon the request of any person, shall provide the
3 names and addresses of bingo licensees as defined in section 5-401 or verify
4 whether or not a person has a privilege license and number or withholding
5 license and number.

6 F. A department employee, in connection with the official duties
7 relating to any audit, collection activity or civil or criminal
8 investigation, may disclose return information to the extent that disclosure
9 is necessary to obtain information which is not otherwise reasonably
10 available. These official duties include the correct determination of and
11 liability for tax, the amount to be collected or the enforcement of other
12 state tax revenue laws.

13 G. If an organization is exempt from this state's income tax as
14 provided in section 43-1201 for any taxable year, the name and address of the
15 organization and the application filed by the organization upon which the
16 department made its determination for exemption together with any papers
17 submitted in support of the application and any letter or document issued by
18 the department concerning the application are open to public inspection.

19 H. Confidential information relating to transaction privilege tax, use
20 tax and rental occupancy tax may be disclosed to any county, city or town tax
21 official if the information relates to a taxpayer who is or may be taxable
22 by the county, city or town. Any taxpayer information released by the
23 department to the county, city or town:

24 1. May only be used for internal purposes.

25 2. May not be disclosed to the public in any manner that does not
26 comply with confidentiality standards established by the department. The
27 county, city or town shall agree in writing with the department that any
28 release of confidential information that violates the confidentiality
29 standards adopted by the department will result in the immediate suspension
30 of any rights of the county, city or town to receive taxpayer information
31 under this subsection.

32 I. The department may disclose statistical information gathered from
33 confidential information if it does not disclose confidential information
34 attributable to any one taxpayer or claimant of unclaimed property. In order
35 to comply with the requirements of section 42-5029, subsection A, paragraph
36 3, the department may disclose to the state treasurer statistical information
37 gathered from confidential information, even if it discloses confidential
38 information attributable to a taxpayer.

39 J. Except as provided in section 42-2002, subsection B, confidential
40 information, described in section 42-2001, paragraph 3, subdivision (a), item
41 (iii), may be disclosed to law enforcement agencies for law enforcement
42 purposes.

43 K. The department may disclose and publish the names of corporations,
44 the dividends of which qualify for the subtraction provided by section
45 43-1128.

1 L. The department may provide transaction privilege tax license
2 information to property tax officials in a county for the purpose of
3 identification and verification of the tax status of commercial property.

4 M. The department may provide transaction privilege tax, luxury tax,
5 use tax, property tax and severance tax information to the ombudsman-citizens
6 aide pursuant to title 41, chapter 8, article 5.

7 N. Except as provided in section 42-2002, subsection C, a court may
8 order the department to disclose confidential information pertaining to a
9 party to an action. An order shall be made only upon a showing of good cause
10 and that the party seeking the information has made demand upon the taxpayer
11 or claimant for the information.

12 O. This section does not prohibit the disclosure by the department of
13 any information or documents submitted to the department by a bingo licensee.
14 Before disclosing the information the department shall obtain the name and
15 address of the person requesting the information.

16 P. If the department is required or permitted to disclose confidential
17 information, it may charge the person or agency requesting the information
18 for the reasonable cost of its services.

19 Q. Except as provided in section 42-2002, subsection C, the department
20 of revenue shall release confidential information as requested by the
21 department of economic security pursuant to section 42-1122 or 46-291.
22 Information disclosed under this subsection is limited to the same type of
23 information that the United States internal revenue service is authorized to
24 disclose under section 6103(1)(6) of the internal revenue code.

25 R. To comply with the requirements of section 42-5031, the department
26 may disclose to the state treasurer, to the county stadium district board of
27 directors and to any city or town tax official that is part of the county
28 stadium district confidential information attributable to a taxpayer's
29 business activity conducted in the county stadium district.

30 Sec. 3. Section 43-327, Arizona Revised Statutes, is amended to read:

31 43-327. Recomputation of tax or amended return due after
32 federal adjustment

33 A. If the amount of taxable income for any year of any taxpayer as
34 reported to the United States treasury department is changed or corrected by
35 the commissioner of internal revenue or other officer of the United States
36 or other competent authority, or if a renegotiation of a contract or
37 subcontract with the United States results in a change in taxable income,
38 ~~such taxpayer shall report such change or correct taxable income, or the~~
39 ~~results of such renegotiation,~~ within ninety days after the final
40 determination of such change or correction or renegotiation EITHER:

41 1. FILE WITH THE DEPARTMENT A COPY OF THE FINAL DETERMINATION, CONCEDE
42 THE ACCURACY OF THE DETERMINATION OR STATE ANY ERRORS AND REQUEST THE
43 DEPARTMENT TO RECOMPUTE THE TAX OWED TO THIS STATE. RECOMPUTING THE TAX BY
44 THE DEPARTMENT IS NOT CONSIDERED TO BE AN AUDIT FOR PURPOSES OF SECTION
45 42-2059. , or

1 2. File an amended return as required by the department of revenue.
2 ~~, and shall concede the accuracy of such determination or state any errors.~~

3 B. THE DEPARTMENT MAY REQUIRE AN AMENDED RETURN IF THE DEPARTMENT
4 LACKS THE NECESSARY INFORMATION TO RECOMPUTE THE TAX OWED TO THIS STATE.

5 ~~B.~~ C. Any taxpayer filing an amended return with the United States
6 treasury department shall also file within ninety days an amended return with
7 the department of revenue which shall contain such information as it shall
8 require.

9 Sec. 4. Section 43-1148, Arizona Revised Statutes, is amended to read:

10 43-1148. Apportionment by department

11 A. If the allocation and apportionment provisions of this article do
12 not fairly represent the extent of the taxpayer's business activity in this
13 state, the taxpayer may petition for or the department may require, in
14 respect to all or any part of the taxpayer's business activity, if
15 reasonable, any of the following:

16 1. Separate accounting, except with respect to an Arizona affiliated
17 group, as defined in section 43-947.

18 2. The exclusion of any one or more of the factors.

19 3. The inclusion of one or more additional factors which will fairly
20 represent the taxpayer's business activity in this state.

21 4. The employment of any other method to effectuate an equitable
22 allocation and apportionment of the taxpayer's income, other than disallowing
23 a properly elected consolidated return.

24 B. IF THE DEPARTMENT, IN THE EXERCISE OF ITS DISCRETION, DETERMINES
25 THAT AN ADJUSTMENT IS NECESSARY PURSUANT TO SUBSECTION A OF THIS SECTION, IT
26 MAY, IN ITS DISCRETION, AUTHORIZE SUCH AN ADJUSTMENT FOR A PERIOD OF NOT LESS
27 THAN ONE TAXABLE YEAR.

28 Sec. 5. Effective date

29 Section 42-1104, Arizona Revised Statutes, as amended by this act, is
30 effective and applies to taxable years beginning from and after December 31,
31 2001.

APPROVED BY THE GOVERNOR APRIL 20, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 20, 2001.

Passed the House April 11, 20 01,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate February 19, 20 01,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

[Signature]
President of the Senate

Chaimin Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

S.B. 1136

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

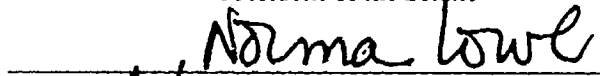
Passed the Senate April 17, 2001,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting



President of the Senate



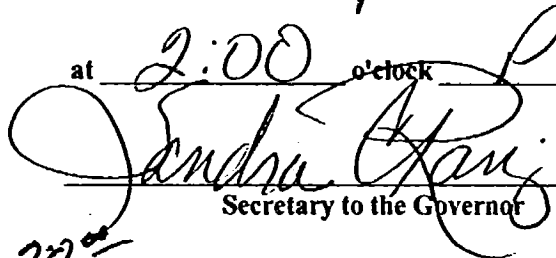
~~Asst.~~ Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

17 day of April, 2001,

at 2:00 o'clock P M.



Secretary to the Governor

APPROVED THIS 20th day of

April, 2001,

at 9:21 o'clock A M.



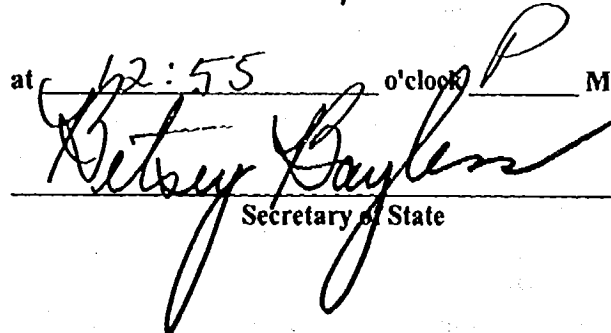
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 20 day of April, 2001,

at 12:55 o'clock P M.



Secretary of State

S.B. 1136